



INTERIOR BOARD OF INDIAN APPEALS

Edna S. Marshall, et al. v. Acting Deputy Assistant Secretary -
Indian Affairs (Operations)

16 IBIA 49 (03/17/1988)

Related Board cases:

13 IBIA 230

16 IBIA 45



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

EDNA S. MARSHALL, ET AL.,
Appellants

v.

ACTING DEPUTY ASSISTANT
SECRETARY--INDIAN AFFAIRS
(OPERATIONS),
Appellee

: Order Relinquishing Jurisdiction
:
:
:
: Docket No. IBIA 85-12-A
:
:
:
: March 17, 1988

On August 21, 1985, the Board of Indian Appeals (Board) approved a settlement agreement in this appeal but retained jurisdiction pending implementation of the agreement. 13 IBIA 230. Under the agreement, appellee agreed to approve gift deed conveyances executed by appellants Edna S. Marshall, Pansy Oyler, Thelma Murphy, Kenneth T. Sparkman, Mrs. Ferol E. Jingst, and Herbert H. Sparkman. The gift deeds conveyed certain fractional interests in the Newton McNeer allotment, Shawnee Reserve No. 206, Johnson County, Kansas, to appellant Jimmie D. Oyler (Oyler) in restricted status.

On April 6, 1986, after having been notified by Oyler that the agreement had not been implemented, the Board issued an order to appellee to show cause why it had not. Appellee's response indicated that gift deeds from appellants Edna S. Marshall, Thelma Murphy, Kenneth T. Sparkman, Mrs. Ferol E. Jingst, and Herbert Sparkman were approved on April 23, 1986. Appellee stated that appellant Pansy Oyler died before her gift deed was approved, and that Oyler was agreeable to having her fractional interest pass to him and his brother by will rather than by a retroactive approval of her gift deed. Appellee further stated that once the will was approved, the settlement agreement would be fully implemented.

The Board transmitted the case record in this appeal to Administrative Law Judge Sam E. Taylor for use in probating the estate of Pansy Oyler. Judge Taylor was requested to notify the Board if it appeared there would be a conflict between the settlement agreement in this appeal and the decision in the probate proceeding. Judge Taylor notified the Board on August 28, 1986, that there was no conflict. He attached a copy of his August 28, 1986, order approving Pansy Oyler's will, in which she devised equal shares in her estate to Oyler and his brother, Donald Richard Oyler.

On September 5, 1986, the Board issued an order to all parties to show cause why the Board should not relinquish jurisdiction over this appeal since it appeared that the settlement agreement had been fully implemented. Oyler responded to the order, requesting that the Board not relinquish jurisdiction

because he was not satisfied with Judge Taylor's order approving Pansy Oyler's will and was therefore filing a petition for rehearing in that estate. The Board retained jurisdiction over this appeal pending final disposition of the probate proceeding.

The decision issued today in the Estate of Pansy Jeanette (Sparkman) Oyler, 16 IBIA 45 (1988), constitutes the final disposition of the probate proceeding. Accordingly, there is no longer any reason for the Board to retain jurisdiction over this appeal. 1/

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, and because the settlement agreement approved by the Board on August 21, 1985, has been fully implemented, the Board relinquishes jurisdiction over this appeal.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge

1/ After taking the actions necessary to clarify the title to certain fee simple interests in the Newton McNeer allotment, as discussed in the Estate of Pansy Oyler, 16 IBIA at 48, Oyler may be found to own some or all of the interests. He may then wish to apply to have the interests taken into trust pursuant to 25 CFR Part 151. Those fee simple interests, however, fall outside the scope of this appeal.